IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : December 03, 2008

1. C.W.P No.15558 of 1997

Devi Chand and others vs Haryana State Electricity Board,

2. C.W.P No.16278 of 1997

Sumer Chand and others vs Haryana State Electricity Board,

3. C.W.P No.17812 of 1997

Scheduled Caste/Scheduled Tribe and Backward Classes Employees Association. vs Haryana State Electricity Board and others.

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CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr.R.S.Bains, Advocate
for the petitioners in CWP Nos.15558 and 17812 of 1997.

Mr.Kapil Kakkar, Advocate
for the petitioners in CWP No.16278 of 1997.

Mr.H.S.Gill, Sr.Advocate with
Mr.R.K.Dhiman, Advocate

Mr.R.K.Malik, Sr.Advocate with
Mr.Vishal Malik, Advocate

Mr.Rajiv Atma Ram, Sr.Advocate with
Mr.Namit Gautam, Advocate

Mr.L.M.Gulati, Advocate

Mr.S.K.Sud, Advocate

Mr.H.S.Jaiswal, Advocate

Mr.Salil Bali, Advocate

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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AJAY TEWARI, J (Oral)

This order shall dispose of C.W.P Nos.15558, 16278 and 17812 of 1997, as common questions of law and facts are involved therein.

In these writ petitions, the petitioners have challenged the selection made as per the advertisement, Annexure P-5. It is the conceded position that 2056 posts of Assistant Linemen and 556 posts of Shift Attendants were ultimately sought to be filled up pursuant to the said advertisement. It is also conceded that 336 reserved category candidates had obtained sufficiently high place in the merit to be considered for appointment as Assistant Linemen under the general category, in view of the judgment of the Hon'ble Supreme Court in Indra Sawhney and others vs Union of India, 1992 Suppl (3) SCC 217. Similarly, 75 reserved category candidates obtained sufficiently high position in the merit to be selected in the general category as Shift Attendants.

Learned counsel for the petitioners have stated that they are limiting their claim only to these posts.

It is also not disputed that by a latest notification dated 8.7.2008, 2067 posts of Assistant Linemen and 304 posts of Shift Attendants have been advertised. It is also mentioned in the written statement filed by the respondent-Board that in fact, the reserved category candidates who obtained sufficient merit to be considered for appointment in the general category would have to be taken out of the quota of reserved category candidates. Thus, learned counsel for the petitioners argue that if

those candidates were removed from the quota of reserved category candidates then equal number of reserved category candidates would have been entitled to be appointed. The only dispute with regard to this submission is that in fact, even after discounting this figure, there were still vacant posts in the reserved category in both classes of posts.

At this stage, in view of the limited submission of learned counsel for the petitioners, I do not deem it appropriate to enter into this controversy as to how many posts of reserved category remained vacant and for what reason.

In the circumstances, I direct the respondent-Board to consider for appointments atleast 336 reserved category candidates for the posts of Assistant Linemen and 75 reserved category candidates for the posts of Shift Attendants from amongst the candidates of reserved category who may have been ousted as a result of wrongly appointed in reserve category, even those reserved category candidates who were entitled for appointment on the basis of their merit even in the general category, and offer appointments to reserved candidates, as per the merit list prepared at that time, out of the posts, which are admittedly lying vacant even today. It is further clarified that any such candidates who are appointed as a result of this exercise would not be entitled to receive any back-wages but would be entitled to all other consequential benefits. In view of the admitted fact about the existence of vacancies, I further hold that it would not be in the interest of justice to displace those general category candidates who may have been given appointments because of the illegal ouster of reserved category candidates since they have now been in service for the last 11 years and no fault can be found with them.

The entire exercise will be conducted by the respondent-Board (or its successors) within a period of four months from the receipt of a certified copy of this order.

(AJAY TEWARI)
JUDGE

December 03 , 2008.
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